

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE: NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

This Document Relates to:  
All Cases

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) MDL No. 1:13-md-2419-RWZ  
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**AGREED MOTION FOR ENTRY OF SUPPLEMENTAL  
ORDER TRANSFERRING ADDITIONAL PERSONAL INJURY CASES**

Insight Health Corp. (“Insight”), by and through its undersigned counsel, respectfully requests that this Court enter a supplemental order transferring additional personal injury cases in accordance with this Court’s memorandum of decision dated May 15, 2014 and order dated June 5, 2014. Counsel for plaintiffs in each of the relevant cases has consented to this motion and the entry of the attached order. In support of this agreed motion, Insight states as follows:

**BACKGROUND**

On December 27, 2013, the Chapter 11 Trustee (the “Trustee”) for the bankruptcy estate of New England Compounding Pharmacy, Inc. (“NECC”) filed the Chapter 11 Trustee’s Renewed and Supplemental Motion to Transfer Additional Personal Injury Tort and Wrongful Death Cases to This Court Pursuant to 28 U.S.C. §§ 157(b)(5) and 1334 [Doc. No. 732] (the “Renewed Transfer Motion”), seeking to transfer to this Court certain personal injury and wrongful death cases pending in Virginia state court.

On May 15, 2014, this Court entered its Memorandum of Decision [Doc. No. 1131] (the “Supplemental Transfer Decision”) granting the Renewed Transfer Motion.

On June 5, 2014, this Court entered its order directing the transfer of twenty (20) personal injury and wrongful death cases pending in the Roanoke City Circuit Court to this Court [Doc. No. 1173] (the “Roanoke Transfer Order”).

Subsequent to the entry of the Roanoke Transfer Order, an additional wrongful death case, *Larry D. Gaskins, Executor of the Estate of Miriam G. Warren, deceased v. Insight Health Corp., et al.* (Case No. CL14-1183), was commenced in the Roanoke City Circuit Court. The Trustee filed a Motion for Entry of a Supplemental Order Transferring Additional Wrongful Death Case [Doc. No. 1252] following the filing of the *Gaskins* case seeking its transfer to this Court.

Following the filing of the *Gaskins* case, three additional personal injury cases were filed in the Roanoke City Circuit Court: *Carolyn D. Fidler, et al. v. Insight Health Corp., et al.* (Case No. CL14-1300), *Jean E. Clemons v. Insight Health Corp., et al.* (Case No. CL14-1311), and *Theron L. Lester v. Insight Health Corp., et al.* (Case No. CL14-1422). The Court transferred each of these cases [Docket No. 1353]. At no time since granting the Renewed Transfer Motion has the Court ever declined to transfer a case from Virginia state court to Massachusetts.

Four additional cases have now been filed against Insight in the Circuit Court for the City of Roanoke: *Amanda Cuddy v. Insight Health Corp., et al.* (Case No. CL14-1695); *Toni Huff v. Insight Health Corp., et al.* (Case No. CL14-1696); *Mary Walker v. Insight Health Corp., et al.* (Case No. CL14-1697); and *Basil Proffitt v. Insight Health Corp., et al.* (Case No. CL14-1698). Plaintiffs in all four cases are represented by The Miller Firm LLC. Counsel for The Miller Firm acknowledges that these four cases rest on footing similar to that of previously transferred cases. In order to expedite the handling of these cases, and with the recognition that the Court previously has rejected objections to the transfer mechanism, plaintiffs’ counsel has consented to

the entry of an agreed order of transfer with the understanding that plaintiffs' objections thereto are preserved for purposes of appeal.

### **RELIEF REQUESTED**

In accordance with this Court's Supplemental Transfer Decision and Roanoke Transfer Order, Insight seeks entry of a supplemental order transferring to this Court the additional personal injury actions styled *Amanda Cuddy v. Insight Health Corp., et al.* (Case No. CL14-1695); *Toni Huff v. Insight Health Corp., et al.* (Case No. CL14-1696); *Mary Walker v. Insight Health Corp., et al.* (Case No. CL14-1697); and *Basil Proffitt v. Insight Health Corp., et al.* (Case No. CL14-1698). Transfer of these cases is appropriate and consistent with the Supplemental Transfer Decision and the Roanoke Transfer Order, which Insight incorporates herein by reference. Specifically, these cases are on all fours with the personal injury and wrongful death actions previously transferred from the Roanoke City Circuit Court to this Court pursuant to the Roanoke Transfer Order. The claims alleged in the cases are exactly the types of claims for which Insight has asserted a right to indemnity and contribution against NECC in its proof of claim filed in the chapter 11 case. Additionally, all plaintiffs have all filed proofs of claim in the chapter 11 case.

### **CONCLUSION**

For the reasons stated herein, Insight respectfully requests that this Court enter the agreed order, substantially in the form attached hereto as Exhibit 1, transferring the named cases to this Court.

Dated: October 8, 2014  
Richmond, Virginia

Respectfully submitted,

/s/ Samuel T. Towell

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**CERTIFICATE OF SERVICE**

I, Samuel T. Towell, hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on October 8, 2014.

Dated: October 8, 2014 /s/ Samuel T. Towell  
Samuel T. Towell